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Toby Moskovits and Yechial Michael Lichtenstein*

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re:

286 Rider Ave Acquisition LLC,

Debtor.

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Chapter 11

Case No. 21-11298-lgb

**REPLY DECLARATION SUPPORTING
MOTION TO TERMINATE EXCLUSIVITY AND RELATED RELIEF**

Yechial Michael Lichtenstein, pursuant to 18 U.S.C. § 1746, makes this Declaration on personal knowledge.

1. I am the managing member of 286 Rider Ave Development LLC (“**Development**”) and make this Declaration in further support of the motion to terminate exclusivity and related relief. [Dkt. No. 87.]
2. Attached hereto as **Exhibit A** is a copy of the written analysis portion of the independent appraisal commissioned by the Lender in July 26, 2019 which provides for an “as is” value for the subject property of \$12 million (at p. 8). While the value has increased since the appraisal, irrespective, there is clearly equity in the property despite assertions otherwise which should be protected.
3. Attached hereto as **Exhibit B**, is a term sheet (the “**Term Sheet**”) from the “**Plan Funder**,” with the identifying information of the Plan Funder redacted, but with all other terms

included. Here Development is concerned that Lender (through its control of the Debtor) is seeking a short sale, with little marketing, whereupon the Lender will attempt to credit bid, devaluating the property, and creating a windfall to Lender, to the detriment of creditors and equity, who's rights in what is a solvent estate would be severely prejudiced. Movants are prepared to provide the unredacted Term Sheet to the Court or the U.S. Trustee, but not to Lender or Nominal Debtor, as both have demonstrated hostility towards movants and ill will.

4. The Term Sheet contains the following terms:

- a. Up to \$9,300,000.00 in funds;
- b. 2% origination fee at closing of \$186,000.00
- c. Six (6) months of prefunded monthly interest of \$418,000
- d. Six (6) months of real estate taxes in escrow of \$25,000
- e. Title insurance of \$10,000
- f. Appraisal fee of \$7,500.

5. As the Plan Proponent, Ms. Moskovits and I will pay the Plan Funder the deposit of \$38,000.

6. As a result, the Term Sheet provides for, approximately, \$8,500,000.00 in funding.

7. In addition, as the Plan Proponent, we have arranged for a cash infusion of an additional \$3.2 million to cover any remaining allowed claims from available funds we control.

8. Further, I and Ms. Moskowitz are prepared to fund a DIP loan at 5% interest, to be used solely for the protection of the property such as payment of taxes, insurance or construction costs necessary to maintain the property's tax abatement status and U.S. Trustee fees, in exchange for a super-priority administrative expense claim (with no priming or priority

terms prejudicial to the interests of general creditors in the estate which are included in the Lender controlled Debtor's DIP Motion).

9. I note that neither I nor Ms. Moskovits were contacted to provide a DIP loan with respect to the property.

10. In addition, in connection with exclusivity motion, and on the condition that no other plans are permitted to be filed, Development is willing to make regular, non-default monthly interest payments through confirmation.

11. Lastly, after seeing the allegations in the omnibus reply filed Friday by counsel to the Nominal Debtor which made reference to building plans that were not provided, on Sunday, November 14, 2021, at 12:31 AM, I emailed the Lender, counsel to the Nominal Debtor and counsel to the Lender, advising them that the Department of Building ("DOB") Plans were both publicly available and were provided to Lender previously. A copy of the email with attachment from the New York City Department of Buildings project overview, showing a brief description of the plans that were filed with the DOB, evidencing their public availability is attached hereto as **Exhibit C**.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on November 15, 2021



YECHIAL MICHAEL LICHTENSTEIN